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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/901,560	07/09/2001	Jeremy A. Kenyon	41018.P013	4808
25943	7590	10/17/2005	EXAMINER	
SCHWABE, WILLIAMSON & WYATT, P.C. PACWEST CENTER, SUITE 1900 1211 SW FIFTH AVENUE PORTLAND, OR 97204			NGUYEN BA, HOANG VU A	
		ART UNIT	PAPER NUMBER	
		2192		

DATE MAILED: 10/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/901,560	KENYON, JEREMY A.	
	Examiner Hoang-Vu A. Nguyen-Ba	Art Unit 2192	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 27 July 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-36 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-36 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |  |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)              |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 6) <input type="checkbox"/> Other: _____.  |

## DETAILED ACTION

1. This action is responsive to the amendment filed July 27, 2005.
2. Claims 1-36 remain pending.

### *Response to Amendments*

3. The rejection of claims 5, 22-30 and 32-36 under 35 U.S.C. § 112, second paragraph is withdrawn in view of Applicant's amendments to these claims to provide proper antecedent to the identified terms.

### *Response to Arguments*

4. Applicant's arguments filed concurrently with the above-identified amendment have been fully considered but they are not persuasive. The rejections of claims 1-6 and 8-36 under 35 U.S.C. § 102(e) as being anticipated by Tanigawa and of claim 7 under 35 U.S.C. § 103(a) as being unpatentable over Tanigawa in view of Krumel are maintained. Following is an examiner's response to Applicant's arguments.

a. **Rejection of Claims 1-6 and 8-36 under 35 U.S.C. § 102(e):**

Applicant essentially argued that Tanigawa does not teach "changing an operational visual representation ... to convey ... that new sub-menu items have been added to ... the menu item" as recited in Claims 1 and 14.

Tanigawa's update process does not change the "operational visual representation of the menu item" when new sub-menu items have been added. Rather, Tanigawa's update process only occurs "when both data and a menu are being displayed," i.e., is only an update of the displayed data information.

In response, the examiner respectfully notes that the method steps in FIG. 27 cited in the Office action have to be interpreted in light of the specification (e.g., column 25 of Tanigawa). According to the description

therein, “[t]he display control unit 2005 … has the display unit 2006 update its display using the new data (S2758), before the processing returns to S2702.” Furthermore, Tanigawa’s specification in column 25 also describes using titles of sets of data as menu items and that the first twenty characters or any other number of characters in these set of data may be used as its menu items (25:46-53). Therefore, when the user chooses to display these sets of data as menu items, **new sub-menu items have been added to the menu item** and the display control unit will have the display unit update its display using the new sets of data (i.e., **change the operational visual representation of the menu item when new sub-menu have been added**). As an additional remark, Tanigawa does use the term “update.” If there are no changes to the menu, there would be no need for updating the menu.

b. **Rejection of Claim 7 under 35 U.S.C. § 103(a):**

Applicant essentially argued that: i) for at least the reason that Tanigawa fails to teach or suggest the limitation discussed above, dependent Claim 7 is not obvious and is patentable over the proposed combination of Tanigawa and Krumel; and ii) there is no “clear and particular” teaching or suggestion in Tanigawa to incorporate the features of Krumel, and there is no teaching or suggestion in Krumel to incorporate the features of Tanigawa; furthermore, Krumel “fails to even mention, let alone disclose [“3D computer games”] as recited in Claim 7.”

In response to i), the examiner notes that Applicant’s arguments have been fully addressed in paragraph a. above. In response to ii), the examiner notes that, contrarily to Applicant’s assertion that there is no teaching or suggestion in Krumel to incorporate the features of Tanigawa, Krumel does

suggest that television (e.g., Tanigawa teachings) and home video games systems (e.g., Sony Play Station™) are among other exemplary devices and appliances that may be used with PNUT protocols in accordance with Krumel invention (¶¶ [0183-0184]) for transmitting update or other commands or information over a network (see Krumel's Abstract). With the suggestion of Krumel, Tanigawa could be modified to incorporate the above feature so that television and home video games could be networked and operation menu for home video games could be displayed on television screen according to Tanigawa teachings.

In view of the foregoing discussion, rejections of amended Claims 1-36 are thus maintained and reproduced herein for Applicant's convenience.

***Claim Rejections – 35 U.S.C. § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in  
(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or  
(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent,  
except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language;

6. Claims 1-6 and 8-36 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,314,570 to Tanigawa et al. ("Tanigawa").

### **Claims 1 and 14**

Tanigawa discloses at least:

*receiving from a remote server a distribution collection of sub-menu items for a menu item (see at least Figure 27; steps S2702, S2704, S2706, S2712, S2728, S2736, S2752, S2754; and related discussion in the specification);*

*determining whether one or more of the sub-menu items of said distribution collection are not part of an operational collection of sub-menu items of the menu item (see at least Figure 27; steps S2754, S2756; and related discussion in the specification);*

*updating the operational collection of sub-menu items of the menu item (see at least Figure 27, steps 2756, S2758; and related discussion in the specification); and*

*changing an operational visual representation of the menu item from a first state to a second state to convey to a user of the client device that new sub-menu items have been added to the operational collection of sub-menu items of the menu item (see at least Figure 27, transition from S2758 to S2702; and related discussion in the specification).*

### **Claims 2 and 15**

Rejections of base claims 1 and 14 are incorporated. Tanigawa further discloses wherein said updating of the operational collection of sub-menu items of the menu item comprises adding said one or more of the sub-menu items of said distribution collection that are not part of said operational collection of sub-menu items of the menu item to the operational collection of subs menu items of the menu item (see at least Figure 27, steps 2756, S2758; and related discussion in the specification).

### **Claims 3 and 16**

Rejections of base claims 1 and 14 are incorporated. Tanigawa further discloses wherein said first state of the operational visual representation of the menu item comprises a

*description of the menu item, and said changing of the operational visual representation of the menu item from the first state to the second state comprises changing said operational visual representation of the menu item comprising said description of the menu item to an operational visual representation of the menu item comprising said description of the menu item annotated with an indication that one or more sub-menu items have been added to the operational collection of sub-menu items of the menu item (see at least Figure 25 and related discussion in the specification).*

### **Claims 4 and 17**

Rejections of base claims 1 and 14 are incorporated. Tanigawa further discloses *wherein the method further comprises responsive to an occurrence of a predetermined condition, changing said operational visual representation of the menu item from said second state back to said first state (see at least Figure 27, transition from S2758 to S2702; and related discussion in the specification).*

### **Claim 5**

Rejections of base claim 1 and intervening claim 4 are incorporated. Tanigawa further discloses *wherein said predetermined condition comprises a user having selected a predetermined number of at least one or more added sub-menu items (see at least 23:39-50).*

### **Claims 6 and 18**

Rejections of base claims 1 and 14 respectively are incorporated. Tanigawa further discloses *wherein said menu item corresponds to a family of program products, said sub-menu items correspond to program products of the family, and said one or more sub-menu items that are not part of the operational collection of sub-menu items of the menu item correspond to newly available program products of the family or newly available versions of the program products of the family (see at least Figures 12, 13, 14 and related discussion in the specification).*

### **Claims 8 and 19**

Rejections of base claims 1 and 14 are incorporated. Tanigawa further discloses *wherein said menu item corresponds to a family of media contents, said sub-menu items correspond to media contents of the family, and said one or more sub-menu items that are not part of the operational collection of sub-menu items of the menu item correspond to newly available media contents of the family or newly available versions of the media contents of the family* (see at least Figures 15-18 and related discussion in the specification).

### **Claim 9**

Rejections of base claim 1 and intervening claim 8 are incorporated. Tanigawa further discloses *wherein the family of media contents is a bulletin board of information postings, and each of media contents is an information posting* (see at least Figures 21-25 and related discussion in the specification).

### **Claims 10 and 20**

Rejections of base claims 1 and 14 are incorporated. Tanigawa further discloses *wherein said menu item corresponds to a family of documents, said sub-menu items correspond to documents of the family, and said one or more sub-menu items that are not part of the operational collection of sub-menu items of the menu item correspond to newly available documents of the family or newly available versions of the documents of the family* (see at least Figures 10, 15-18 and related discussion in the specification).

### **Claims 11 and 21**

Rejections of base claims 1 and 14 are incorporated. Tanigawa further discloses *wherein one or more sub-menu items comprise locators identifying locations from which resources to which the one or sub-menu items correspond can be retrieved* (see at least 1:22-51).

### **Claim 12**

Rejections of base claim 1 and intervening claim 11 are incorporated. Tanigawa further discloses *wherein said locations are disposed within a local file subsystem, and the method further comprises receiving said resources into said locations of said file subsystem from a selected one of said remote server or an agent of said remote server* (see at least 1:22-51).

### **Claim 13**

Rejections of base claim 1 and intervening claim 11 are incorporated. Tanigawa further discloses *wherein said resources comprise selected ones of executable, text files and web pages* (see at least 1:22-51).

### **Claims 22, 25, 28, 31, 33 and 35**

Tanigawa does not specifically disclose:

*installing a first version of a first resource on an apparatus;*

*installing also on said apparatus a first sub-menu item corresponding to the first version of the first resource;*

*installing further on said apparatus an agent to facilitate subsequent installing on said apparatus a second sub-menu item corresponding to a selected one of a second version of the first resource and a third version of a second resource, and to facilitate modification of a visual representation of a menu item of said apparatus to which at least one or multiple sub-menu items are members, to draw an user's attention to said second sub-menu item.* However, the installing

steps of various versions of the resources are deemed inherent to Tanigawa teachings which comprise an updating (note that the process of updating is inherently one of installing required by an updated version of resource) step shown as S2758 in Figure 27. If there is only one version of a resource, then there is no need for updating the display of resource data.

### **Claims 23, 26, 29, 32, 34 and 36**

Rejections of base claims 22, 25, 28, 31, 33 and 4, respectively are incorporated. Since these claims recite the same features of claims 1 (i.e., the changing step) and 4, the same rejections are thus applied.

### **Claims 24, 27 and 30**

Rejections of base claims 22 (and intervening claim 23), 25 and 28, respectively are incorporated. Since these claims recite the same feature of claim 13, the same rejection is thus applied.

### ***Claim Rejections – 35 USC § 103***

7. The following is a quotation of the 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,314,570 to Tanigawa et al. (“Tanigawa”), as applied to claims 1 and 6, in view of U.S. Patent Application Publication No. 2002/0080771 by Krumer.

### **Claim 7**

Tanigawa does not specifically disclose *wherein the family of product products is 3D computer games, and each of the program products is a 3D computer game*. However, Krumer teaches a method of utilizing PLD-based network communication protocols for networking common entertainment equipment such as home video game systems (e.g., Sony Play Station™) (see at least paragraph [0184]). It would have been obvious to a person having ordinary skill in the art at the time the invention was made to use Krumer’s teachings in Tanigawa because this would allow Tanigawa to generate and display operation menu for home video games.

### ***Conclusion***

9. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hoang-Vu "Antony" Nguyen-Ba whose telephone number is (571) 272-3701. The Examiner can normally be reached on the following days of a bi-week: Monday-Thursday (first week) and Tuesday-Friday (second week) from 7:15 to 17:45.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Tuan Dam can be reached at (571) 272-3695. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



ANTONY NGUYEN-BA  
PRIMARY EXAMINER

Art Unit 2192

October 11, 2005